

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

UNITED STATES OF AMERICA

v.

CLIFTON S. PORTERFIELD

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CR 111-187

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O R D E R

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Defendant has filed the present motion asking this Court to compel his attorney, Richard T. Pacheco, to surrender Defendant's case file. (Doc. 54.) Defendant claims to have sent Mr. Pacheco a letter requesting a complete copy of the case file. In response, Mr. Pacheco purportedly sent the indictment, plea agreement, docket sheet, pre-sentence investigation report, statement of reasons, and judgment. Defendant contends that his counsel told him that local rules prevent him from sending a copy of a "motion of discovery" and that his office did not have copies of the sentencing transcripts.

Defendant requests these materials to assist in his preparation of a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255; Defendant alleges that Mr. Pacheco is withholding the records in an attempt to frustrate his attempts to file such a motion.

To date, Defendant has not filed any post-conviction motions. Thus, his motion to compel is, at best, premature. A habeas petitioner is entitled to discovery only upon a showing of good cause and diligence in pursuing the claim. 28 U.S.C. § 2255 RULE 6(a). Because Defendant has yet to file any such motion, the Court is unable to engage in the required good cause analysis. See United States v. Lewis, No. CR605-035, 2007 WL 2345241, at \*1 (S.D. Ga. Aug. 13, 2007) ("Defendant is further advised that he is not entitled to a copy of his entire case file before preparing a § 2255 motion and his failure to file a § 2255 motion within the one-year deadline will not be excused because his attorney neglected or refused to provide that file as requested."). Indeed, "a habeas case is not a vehicle for a so-called fishing expedition via discovery, an effort to find evidence to support a claim." Borden v. Allen, 646 F.3d 785, 810 n. 31 (11th Cir. 2011).

Accordingly, Defendant's motion to compel (doc. 54) is **DENIED**.

**ORDER ENTERED** at Augusta, Georgia, this 17<sup>th</sup> day of December, 2014.

  
HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA